



CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 06/26/01

AGENDA ITEM 4

WORK SESSION ITEM

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Replacement of Credit Enhancement for the Multifamily Housing Revenue Bonds
(The Timbers Apartments) Series 1998A

RECOMMENDATION:

It is recommended that City Council adopt the attached resolution approving the change of credit enhancement from Chase Manhattan Bank, N.A. to the Federal National Mortgage Association (Fannie Mae) and the amended Regulatory Agreement, Indenture and Loan Agreement.

BACKGROUND:

On November 25, 1997, City Council adopted a resolution of intention to issue mortgage revenue bonds to finance the purchase and rehabilitation of The Timbers, a 132 unit multifamily housing development located at 25200 Santa Clara Street. The Timbers was constructed in 1975 and is comprised of six two and three story residential buildings. Amenities include a swimming pool, spa, gated parking and clubhouse. The unit mix includes 17 studios, 16 studios with lofts, 49 one-bedroom units and 50 one-bedroom units with lofts.

On March 17, 1998, City Council adopted a resolution authorizing the issuance, sale and delivery of City of Hayward Variable Rate Demand Multifamily Housing Revenue Bonds Series 1998A in an amount not to exceed \$9.5 million. The total cost to the developer for the acquisition and rehabilitation was approximately \$10.5 million. In addition to the revenue bonds, there was \$1 million in developer equity. As a result of the tax exempt bond issue, until 2013, twenty percent of the units will be restricted to households whose annual income is at or below 50% of median income adjusted for household size (no more than \$28,650 for a family of two).

The original credit enhancement to secure the bonds was a letter of credit from Chase Manhattan Bank, N.A. for a term of ten years, rated Aa2-vmig1 by Moodys bond rating agency. The property rehabilitation of The Timbers has been completed and the units are fully rented. Since Fannie Mae is the highest rated and most secure type of credit enhancement available (rated AAA by Standard and Poors), the owner desires to put the Fannie Mae credit enhancement in place as the final phase of the project. This credit enhancement will be permanent for the life of the bonds. In return for being the credit provider, Fannie Mae requires that a Rider be attached to the Regulatory Agreement. If there were to be an event of default, Fannie Mae (as the credit provider) will take over the project and convey the title to a new owner. The Regulatory Agreement will continue to remain in place for the life of the bonds.

As Council is aware, payment of the bond principal and interest is solely from the project revenues and **not** an obligation of the City of Hayward. Staff recommends adoption of the attached resolution because the Fannie Mae credit enhancement makes the project financing more secure and the owner is not taking any money out of the project.

Prepared by:

for Sylvia Ehrenthal

Ann R. Bauman, Neighborhood and
Economic Development Manager

Recommended by:

Sylvia Ehrenthal

Sylvia Ehrenthal, Director of Community
and Economic Development

Approved by:

Jesús Armas

Jesús Armas, City Manager

Resolution

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION APPROVING AMENDMENTS TO CERTAIN
BOND DOCUMENTS AND AUTHORIZING AND
DIRECTING THE EXECUTION AND DELIVERY OF
DOCUMENTS AND ACTIONS TAKEN IN CONNECTION
THEREWITH WITH RESPECT TO THE TIMBERS
APARTMENTS, A MULTIFAMILY DEVELOPMENT**

WHEREAS, the City of Hayward (the "City") has issued its Variable Rate Demand Multifamily Housing Revenue Bonds (The Timbers Apartments), Series 1998A in the original aggregate principal amount of \$9,500,000 (the "Bonds") pursuant to an Indenture of Trust (the "Indenture"), dated as of March 1, 1998, by and between the Issuer and U.S. Bank Trust National Association, as trustee (the "Trustee"); and

WHEREAS, Santa Clara Associates LLC, a California limited liability company (the "Borrower"), the owner of that certain multifamily housing residential facility commonly known as The Timbers Apartments located in the City (the "Project") financed with the proceeds of the Bonds, desires to deliver a substitute Letter of Credit (as defined in the Indenture) to secure the payment of the principal of and interest on the Bonds; and

WHEREAS, the Indenture and the Loan Agreement executed in connection with the issuance of the Bonds (the "Loan Agreement") are required to be amended to include specific provisions with respect to and in connection with such substitute Letter of Credit; and

WHEREAS, the Indenture and the Loan Agreement may be amended pursuant to the provisions of the Indenture and the Loan Agreement, respectively, upon compliance with certain provisions thereof, which provisions shall be complied with prior to execution and delivery of such amendments; and

WHEREAS, the Borrower has agreed to certain amendments to the Regulatory Agreement and Declaration of Restrictive Covenants executed in connection with the issuance of the Bonds at the time of the amendment of the Indenture and the Loan Agreement.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward as follows:

1. The following documents (the "Amendment Documents") in the form presented to this meeting, are hereby approved:

- (a) The Amended and Restated Indenture of Trust, dated as of June 1, 2001, between the City and U.S. Bank Trust National Association, as Trustee;
- (b) The Amended and Restated Loan Agreement, dated as of June 1, 2001, among the City, the Trustee and the Borrower; and
- (c) The First Amendment to Regulatory Agreement and declaration of Restrictive Covenants, dated as of June 1, 2001, among the City, the Trustee and the Borrower.

The Mayor and the City Manager of the City (the "Authorized Representatives") are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Amendment Documents, and the City Clerk is hereby authorized and directed, for and in the name and on behalf of the City, to attest, if required, the signature of the Authorized Representatives, in substantially said form, with such additions thereto or changes therein as are recommended or approved by the Authorized Representatives upon consultation with bond counsel to the City, including such additions or changes as are necessary or advisable in accordance with Section 2 hereof, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Amendment Documents.

2. The Authorized Representatives and any and all other officials of the City or such other person designated by the City are hereby authorized and directed, for and on behalf of the City, to do any and all things and take any and all actions, including, without limitation, the execution and delivery of any and all amendments or supplements to the documents executed and delivered by the City in connection with the issuance of the Bonds, any and all assignments, certificates, agreements, notices, consents, instruments of conveyance and other documents, which they, or any of them, on the advice of bond counsel to the Issuer, may deem necessary or advisable in order to effect the provisions of the Amendment Documents, as provided herein, and any and all assignments, certifications, agreements, notices, consents, instruments of conveyance and other documents which may be required by the Internal Revenue Code of 1986, as amended, which they, or any of them, on the advice of bond counsel to the City, may deem necessary or advisable in connection with the execution and delivery of the Amendment Documents, as provided herein.

3. This resolution shall take effect immediately upon its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward